

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Amend subsection (b)(1) of Section 7.50, and
Add subsection (b)(1.5) of Section 7.50
Title 14, California Code of Regulations
Re: Alameda Creek and Tributaries (Alameda Co.)

I. Date of Initial Statement of Reasons: August 28, 2006

II. Dates and Locations of Scheduled Hearings:

- | | | |
|-----|---------------------|--|
| (a) | Notice Hearing: | Date: August 4, 2006
Location: Sacramento, CA |
| (b) | Discussion Hearing: | Date: October 6, 2006
Location: San Diego, CA |
| (c) | Discussion Hearing: | Date: November 3, 2006
Location: Redding, CA |
| (d) | Adoption Hearing: | Date: December 8, 2006
Location: Santa Monica, CA |

III. Description of Regulatory Action:

- a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Current sport fishing regulations for Alameda Creek are governed by South Central Fishing District general regulations, which allow for a daily bag limit of five trout from the last Saturday in April through November 15.

This proposal requests that Alameda Creek and its tributaries be restricted during the general trout season to a zero bag limit, and the use artificial lures with barbless hooks only.

Historically, the Alameda Creek watershed has supported a steelhead trout population. Due to various factors related to population growth and land development, stream habitat conditions for steelhead have become degraded over time and the current steelhead population is at a low level. In 1997, steelhead trout along the central coast of California were listed as Threatened pursuant to the federal Endangered Species Act. Several local groups and governmental agencies are currently pursuing various avenues to restore Alameda Creek steelhead with identified action items of removing barriers to upstream migration, improving stream flows and restoring other stream habitat conditions to benefit steelhead. Because of the continued low adult steelhead population levels, angler harvest of juvenile steelhead should be curtailed until restoration activities have shown measured results in improving the numbers of adult steelhead utilizing Alameda Creek.

This proposal aims to protect juvenile steelhead/rainbow trout that are present in all waters of the Alameda Creek watershed. It is highly likely that many of the rainbow trout

currently residing in Alameda Creek could exhibit an anadromous behavior by migrating to the ocean if given the opportunity. Therefore, rainbow trout currently residing within the Alameda Creek watershed would play a vital role in steelhead recovery, if steelhead habitat and migration avenues improve. During migration to the reservoirs for growth, the upper watershed rainbow trout population exhibits characteristics similar to those of juvenile steelhead emigrating from freshwater to the ocean. Assessments are currently underway to determine whether to use the upper watershed populations as genetic stock to jumpstart the anadromous steelhead run downstream once migration barriers in the lower watershed are remediated.

This proposal, therefore, provides for increased protection of juvenile steelhead/rainbow trout while also providing recreational, no-harvest fishing opportunities in Alameda Creek.

To retain consistency with the alphabetical order of streams in Section 7.50(b), it is recommended to assign Alanbique Creek a new subsection number of (b)(1.5) and assign Alameda Creek to subsection (b)(1).

(b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Section(s) 200, 202, 205, 215, 220, and 315, Fish and Game Code.

Reference: Section(s) 200, 205, 206, and 215, Fish and Game Code.

(c) Specific Technology or Equipment Required by Regulatory Change:

None.

(d) Identification of Reports or Documents Supporting Regulation Change:

None.

(e) Public Discussions of Proposed Regulations Prior to Notice Publication:

No public meetings are being held prior to the notice publication. The 45-day comment period provides adequate time for review of the proposed amendment.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

The Alameda Creek Alliance requested that the Commission: 1) close Alameda Creek and all tributaries to fishing all year except as noted in 2 below; and 2) allow the main stem of Alameda Creek above Little Yosemite to remain open to fishing from December 1 through April 30 with a zero bag limit and the use of artificial lures with single barbless hooks only.

(b) No Change Alternative:

The changes are necessary to protect juvenile and adult steelhead utilizing Alameda Creek from excessive harvest by trout anglers.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or

would be as effective and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The changes are necessary to protect juvenile and adult steelhead.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

(e) Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs Mandated on Local Agencies or School Districts:

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

(h) Effect on Housing Costs:

None.

Informative Digest/Policy Statement Overview

Current sport fishing regulations for Alameda Creek are governed by South Central Fishing District general regulations, which allow for a daily bag limit of five trout from the last Saturday in April through November 15.

This proposal requests that Alameda Creek and its tributaries be restricted during the general trout season to a zero bag limit, and the use artificial lures with barbless hooks only.

Historically, the Alameda Creek watershed has supported a steelhead trout population. Due to various factors related to population growth and land development, stream habitat conditions for steelhead have become degraded over time and the current steelhead population is at a low level. In 1997, steelhead trout along the central coast of California were listed as Threatened pursuant to the federal Endangered Species Act. Several local groups and governmental agencies are currently pursuing various avenues to restore Alameda Creek steelhead with identified action items of removing barriers to upstream migration, improving stream flows and restoring other stream habitat conditions to benefit steelhead. Because of the continued low adult steelhead population levels, angler harvest of juvenile steelhead should be curtailed until restoration activities have shown measured results in improving the numbers of adult steelhead utilizing Alameda Creek.

This proposal aims to protect juvenile steelhead/rainbow trout that are present in all waters of the Alameda Creek watershed. It is highly likely that many of the rainbow trout currently residing in Alameda Creek could exhibit an anadromous behavior by migrating to the ocean if given the opportunity. Therefore, rainbow trout currently residing within the Alameda Creek watershed would play a vital role in steelhead recovery, if steelhead habitat and migration avenues improve. During migration to the reservoirs for growth, the upper watershed rainbow trout population exhibits characteristics similar to those of juvenile steelhead emigrating from freshwater to the ocean. Assessments are currently underway to determine whether to use the upper watershed populations as genetic stock to jumpstart the anadromous steelhead run downstream once migration barriers in the lower watershed are remediated.

This proposal, therefore, provides for increased protection of juvenile steelhead/rainbow trout while also providing recreational, no-harvest fishing opportunities in Alameda Creek.

To retain consistency with the alphabetical order of streams in Section 7.50(b), it is recommended to assign Alanbique Creek a new subsection number of (b)(1.5) and assign Alameda Creek to subsection (b)(1).